



## ***Fourth GAIN World Conference***

Paris, France  
June 14-15, 2000

**Reducing Impediments (Organizational,  
Regulatory, Civil Litigation, Criminal  
Sanction, Risk of Public Disclosure)**

### ***Working Group D***

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***Captain Paul McCarthy  
Executive Air Safety Chairman  
Air Line Pilots Association***



# ***Charter***

- **Identify and evaluate barriers**
- **Propose solutions**
- **Pursue changes to ICAO Annexes**
- **Pursue changes to national laws**
- **Promote “jeopardy free” reporting**



# ***Charter***

- **High Priority Tasks**
  - **Assess the environment**
  - **Identify the impediments**
  - **Identify current efforts**
  - **Pursue changes to ICAO**
  - **Propose methods to change Laws**
  - **Promote “jeopardy free” reporting**



# ***Charter***

- **Other tasks to consider:**
  - **Promote safety culture by “site-specific” processes keyed to organization**
  - **Develop methods to reduce risk of public disclosure**
  - **Identify cultural barriers against sharing**
  - **Encourage development of legal incentives to share**



## ***Work Plan***

- **Prepare for ICAO AIG '99**
  - Data protection provisions
  - Incorporate GAIN concept
- **Promote ASAP and Flight Data Monitoring**
- **Propose legislation model to implement changes**
- **Develop use and protection plan for operators**
- **Propose mutual assistance to alleviate costs**



## ***ICAO AIG '99***

- **AIG is the divisional meeting of the Accident Investigation Group held on demand**
- **September 1999 Montreal, Canada**
- **Last meeting was 1992**
- **Deals primarily with Annex 13- Accident Investigation and Prevention**



## ***ICAO AIG '99***

- **International acceptance of GAIN concept required for implementation**
- **Submission of working paper AIG '99 on GAIN concept was accomplished**
- **Concept was debated in committee and by the entire Meeting**
- **Recommendations contained in the report of the meeting under Agenda item 1.4**



## **ICAO AIG '99**

- **Recommendation 1.4/1:**

***“Para. 8.7 - States should promote the establishment of safety information sharing networks among all users of the aviation system and should facilitate the free exchange of information on actual and potential safety deficiencies”***





## ***ICAO AIG '99***

**Recommendation 1.4/1 will be  
implemented by ICAO as written**



## ***ICAO AIG '99***

- **More details of the new Chapter 8:**
  - “a non punitive environment is fundamental to voluntary reporting”
  - **States should adjust their laws to facilitate collection and sharing**
  - **Data bases should have standardized formats to facilitate sharing**
  - **Share information as soon as possible**



## ***ICAO AIG '99***

- **Recommendation 1.2/12:**
  - **ICAO shall undertake a study of international law with a view to discover provisions pertaining to the protection of confidential data and , if necessary, to propose solutions**
- **The study is already underway with issuance of a survey of existing law**



## ***ICAO AIG '99***

- **Working Group D considers the AIG '99 effort a complete success**
- **International recommended practices incorporate the GAIN concept and set out prerequisites to implementation on the part of individual States**
- **Provides GAIN advocates with needed ammunition to obtain better laws**



# ***Aviation Safety Action Program (ASAP)***

- **Advisory Circular issued by FAA on 3/17/00**
- **Acceptable to airlines and pilots**
- **Format and provisions duplicate American Airlines ASAP program**
- **American program over 5 years old**
- **20,000 reports; 12,000 unique events**
- **“Without (self disclosure) the FAA would have knowledge of less than 1% of events”**

*Tom Chidester, American Airlines*



# ***Aviation Safety Action Program (ASAP)***

- **Advisory Circular allows other airlines to formally participate**
- **Data will be generated**
- **Data needs to be compared**
- **FAA can exclude ASAP data from Freedom of Information Act (FOIA)**
- **Courts may exclude information from civil suits;  
Cases pending**



## ***Flight Data Monitoring***

- **Awaiting proposed rule from FAA; No predictions as this is written**
- **Must ensure non-intervention by FAA**
- **Most other programs have no legal ground rules; Governmental action possible**
- **Protection of crews must be decided by agreements between crews and company**
- **Government must shield from media**



## ***Flight Data Monitoring***

- **Essential that program be allowed to continue and mature**
- **Must be cooperative venture**
- **Must not be allowed to compromise company in media**
- **Must not be used as “check ride without end”**
- **Can be done!**





## ***GAIN Sources of Data***

- **Accident Reports.....available**
- **Mandatory Incident Reports.....available**
- **Service Difficulty Reports (SDRs) .....available**
- **ASAP.....with AC 120-66A now available**
- **Flight Recorder Monitoring.....NPRM ?**



## ***Legislation***

- **New Zealand endured two year public debate**
- **Data protection v. public right to know and use**
- **Requires delicate balance between competing interests**
- **New Zealand statute shows it can be done**



## ***Legislation***

- **New Zealand statute is a suitable model for international use**
- **Envisions judicial oversight, determination of need, restriction on publication, limitation of use**
- **It can be adapted for all data collection activities**



## ***Use and Protection Plan***

- **Agreement necessary between operator and crews**
- **How data is protected upon collection**
- **How data is protected during analysis**
- **Callback options**
- **How data is archived**
- **How analysis is publicized**



## ***Use and Protection Plan***

- **ASAP agreement works for voluntary collection programs**
- **ALPA's model FOQA agreement with individual options provides possible template**
- **Must have a formal pilot organization to agree with**
- **Trust is based on good agreement**



## ***Mutual Assistance***

- **How can all players afford to participate?**
- **Study is a work in progress**
- **Suggestions are greatly appreciated**



## ***Need to Implement***

- **Annex 13 changes**
- **Legislative changes**
- **Contractual changes**
- **REQUIRE CHANGES IN ATTITUDE**
- **Users must work for change**
- **Framework is there**
- **Get to Work!**